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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/538,457 | 06/10/2005 | **Carl Knudsen** | US02 0612 US | 3800 |

65913      7590      02/24/2010
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| EXAMINER |
|---|
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| ART UNIT | PAPER NUMBER |
|---|---|
| 2431 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 02/24/2010 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

| *Advisory Action*<br>*Before the Filing of an Appeal Brief* | Application No.<br>*10/538,457* | Applicant(s)<br>KNUDSEN, CARL |
|---|---|---|
| | Examiner<br>KAVEH ABRISHAMKAR | Art Unit<br>2431 |

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED <u>02 February 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: **(1)** an amendment, affidavit, or other evidence, which places the application in condition for allowance; **(2)** a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or **(3)** a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

      Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *1 and 3-20*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

   _____.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☒ Other: <u>See Continuation Sheet</u>.

/Kaveh Abrishamkar/
Primary Examiner, Art Unit 2431

Continuation of 13. Other:  Regarding claim 1, the Applicant argues that the Cited Prior Art (CPA), Kommerling, does not disclose a circuit adapted to detect the magnetic state of the magnetically-responsive circuit nodes and, in response to a change in the magnetic state, detecting that a package has been tampered with.  This argument is not found persuasive.  The CPA states "any attempt to remove the outer shield 370 will itself change the distribution of the magnetic field and therefore make it impossible to read the key" (Kommerling: column 11, lines 3-10).  This attempt to remove step is interpreted as tampering.  Furthermore, the magnetic field will be changed, and the key will no long be accessible.  Therefore, the key cannot be retrieved by someone that is tampering with the outer shield.  Furthermore, the Applicant argues that it would not have been obvious to combine Sano with Kommerling because Sano is not directed to detecting tampering.  This argument is also not found persuasive.  Sano is directed to detecting a magnetic field from the outside of the package (see Abstract), and Kommerling is also directed to using a magnetic field (which it uses to protect the key).  Therefore, the fact that Kommerling and Sano use the magnetic fields for different purposes is not vital to making it obvious to combine.  Sano uses a change in the magnetic field to change the operation (see Abstract) which could comprise changing an operation in response to tampering.  Therefore, the combination is deemed to be appropriate.  Regarding claim 3, the Applicant argues that the CPA does not teach comparing the detected magnetic state with a reference state.  As stated in the prior office action, this comparing step is seen as inherent.  The examiner respectfully points out that the mode changeover circuit inherently includes a comparison circuit with a reference voltage value.  The hall element will output a first voltage to the mode changeover circuit when the magnet is installed at the outside of the package and output a second voltage to the mode changeover circuit when the magnet is removed from the outside of the package.  The mode changeover circuit will receive the voltage output from the hall element and in order to determine if the magnet was removed must perform a comparison of the received voltage will a reference voltage value.  For example, an integrated circuit having a default high mode changeover circuit using transistor logic a comparison will be performed to determine if the received voltage between 2.2v and 5v for a high (magnet installed) and 0v to 0.8v for low (magnet removed).  Therefore, the argument is not found persuasive.  Regarding claims 4 and 5, the Applicant argues that the CPA does not teach a memory adapted to store data representative of an untampered magnetic state and detecting tampering with the package when the magnetic state is changed.  However, Sano and Kommerling teach a the epoxy resin matrix and permanent magnets package and a mode changeover circuit that senses changes in the epoxy resin and permanent magnets package to detect tempering with the package.  Therefore, this argument is not found persuasive.  Regarding claim 6, the Applicant argues that the CPA does not teach that the device is adapted to alter data stored in the integrated circuit in response to the comparison circuit detecting tampering with the package.  This argument is not found persuasive.  The CPA teaches that in the event of tampering, an alteration of the detected properties  and the key (data) will occur (Kommerling:  column 6, lines 17-25).  The key is data that will be altered in response to the tampering, and therefore, the argument is not found persuasive.  Regarding claim 7, the Applicant argues that the CPA does not teach setting a temper detection flag in response to the detection of tampering.  This argument is not found persuasive.  Kommerling discloses the tampering, and the change of encryption process and Sano discloses the changeover when the magnetic field changes (see Sano abstract).  This changeover disclosed by Sano is analogous to the setting of a flag because the mode changeover circuit changes in result of a signal (flag) of a change in magnetic field (see Sano Abstract).  Therefore, the argument is not found persuasive and the rejection is maintained as given below..